

(3) If the Administrator publishes a notice, the public agency—

(i) Shall make available for inspection, upon request, a copy of the application, notice, and other documents germane to the application, and

(ii) May publish the notice in a newspaper of general circulation in the area where the airport covered by the application is located.

(4) After reviewing the application and any public comments received from a FEDERAL REGISTER notice, the Administrator issues a final decision approving or disapproving the application, in whole or in part, before 120 days after the FAA Airports office received the application.

(d) *Process for applications not substantially complete.* If the Administrator determines an application is not substantially complete, the following procedures apply:

(1) The Administrator notifies the public agency in writing that its application is not substantially complete. The notification will list the information required to complete the application.

(2) Within 15 days after the Administrator sends such notification, the public agency shall advise the Administrator in writing whether it intends to supplement its application.

(3) If the public agency declines to supplement the application, the Administrator follows the procedures for review of an application set forth in paragraph (c) of this section and issues a final decision approving or disapproving the application, in whole or in part, no later than 120 days after the application was received by the FAA Airports office.

(4) If the public agency supplements its application, the original application is deemed to be withdrawn for purposes of applying the statutory deadline for the Administrator's decision. Upon receipt of the supplement, the Administrator issues a final decision approving or disapproving the supplemented application, in whole or in part, no later than 120 days after the supplement was received by the FAA Airports office.

(e) *The Federal Register notice.* The FEDERAL REGISTER notice includes the following information:

(1) The name of the public agency and the airport at which the PFC is to be imposed;

(2) A brief description of the PFC project, the level of the proposed PFC, the proposed charge effective date, the proposed charge expiration date and the total estimated PFC revenue;

(3) The address and telephone number of the FAA Airports office at which the application may be inspected;

(4) The Administrator's determination on whether the application is substantially complete and any information required to complete the application; and

(5) The due dates for any public comments.

(f) *Public comments.* (1) Interested persons may file comments on the application within 30 days after publication of the Administrator's notice in the FEDERAL REGISTER.

(2) Three copies of these comments shall be submitted to the FAA Airports office identified in the FEDERAL REGISTER notice.

(3) Commenters shall also provide one copy of their comments to the public agency.

(4) Comments from air carriers and foreign air carriers may be in the same form as provided to the public agency under § 158.23.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 30867, July 8, 1991, as amended by Amdt. 158-3, 70 FR 14936, Mar. 23, 2005]

#### § 158.29 The Administrator's decision.

(a) *Authority to impose a PFC.* (1) An application to impose a PFC will be approved in whole or in part only after a determination that—

(i) The amount and duration of the PFC will not result in revenue that exceeds amounts necessary to finance the project;

(ii) The project will achieve the objectives and criteria set forth in § 158.15 except for those projects approved under § 158.18.

(iii) If a PFC level above \$3 is being approved, the project meets the criteria set forth in § 158.17;

(iv) The collection process, including any request by the public agency not to require a class of carriers to collect PFC's, is reasonable, not arbitrary,

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nondiscriminatory, and otherwise in compliance with the law;

(v) The public agency has not been found to be in violation of 49 U.S.C. 47524 and 47526;

(vi) The public agency has not been found to be in violation of 49 U.S.C. 47107(b) governing the use of airport revenue;

(vii) If the public agency has not applied for authority to use PFC revenue, a finding that there are alternative uses of the PFC revenue to ensure that such revenue will be used on approved projects; and

(viii) If applicable, the public agency has submitted a competition plan in accordance with § 158.19.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the projects and alternative uses that may qualify for PFC financing under § 158.15, and (if a PFC level above \$3 is being approved) § 158.17, PFC level, total approved PFC revenue including the amounts approved at \$3 and less, \$4, and/or \$4.50, duration of authority to impose and earliest permissible charge effective date.

(b) *Authority to use PFC revenue on an approved project.* (1) An application for authority to use PFC revenue will be approved in whole or in part only after a determination that—

(i) The amount and duration of the PFC will not result in revenue that exceeds amounts necessary to finance the project;

(ii) The project will achieve the objectives and criteria set forth in § 158.15 except for those projects approved under § 158.18.

(iii) If a PFC level above \$3 is being approved, the project meets the criteria set forth in § 158.17; and

(iv) All applicable requirements pertaining to the ALP for the airport, airspace studies for the project, and the National Environmental Policy Act of 1969 (NEPA), have been satisfied.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the approved projects, PFC level, total approved PFC revenue, total approved for collection, including the amounts approved at \$3 and less, \$4, and/or \$4.50, and any limit on the dura-

tion of authority to impose a PFC as prescribed under § 158.33.

(3) Approval to use PFC revenue to finance a project shall be construed as approval of that project.

(c) *Disapproval of application.* (1) If an application is disapproved, the Administrator notifies the public agency in writing of the decision and the reasons for the disapproval.

(2) A public agency reapplying for approval to impose or use a PFC must comply with §§ 158.23, 158.24, and 158.25.

(d) The Administrator publishes a monthly notice of PFC approvals and disapprovals in the FEDERAL REGISTER.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 30867, July 8, 1991, as amended by Amdt. 158-2, 65 FR 34542, May 30, 2000; Amdt. 158-3, 70 FR 14936, Mar. 23, 2005; Amdt. 158-4, 72 FR 28848, May 23, 2007]

### § 158.30 PFC Authorization at Non-Hub Airports.

(a) *General.* This section specifies the procedures a public agency controlling a non-hub airport must follow when notifying the FAA of its intent to impose a PFC and to use PFC revenue on a project under this section. In addition, this section describes the FAA's rules for reviewing and acknowledging a notice of intent filed under this section. A public agency may notify the FAA of its intent to impose a PFC before or concurrent with a notice of intent to use PFC revenue. A public agency must file a notice of intent in the manner and form prescribed by the Administrator and must include the information required under paragraphs (b), (c), or both, of this section.

(b) *Notice of intent to impose a PFC.* This paragraph sets forth the information a public agency must file to notify the FAA of its intent to impose a PFC under this section. The public agency must file a separate notice of intent for each airport at which the public agency plans on imposing a PFC. An authorized official of the public agency must sign the notice of intent and, unless authorized by the Administrator, must include:

(1) A completed FAA Form 5500-1, PFC Application (latest edition) without attachments except as required below;